

REMARKS

Entry of the foregoing and further and favorable consideration of the subject application are respectfully requested.

As correctly stated in the Official Action, claims 1-15 are pending in the present application. Claims 1-8 and 10-15 stand rejected. Claim 9 stands objected to.

By the present amendment, the specification has been amended to recite related application data. Claim 1 has been amended to recite that the steps are performed sequentially. Claims 3, 5, 8, 9, and 13 have been amended, where appropriate, as suggested in the Official Action. Claim 10 has been amended to correct a spelling error. New claims 16-20 have been added to cover embodiments deleted by the amendments to other currently pending claims. No new matter has been added.

Information Disclosure Statement

Applicants note that U.S. Patent No. 4,371,208 discussed on page 2 of the Official Action was submitted in error. The correct document is U.S. Patent No. 5,371,208 (Kozulic). Applicants believe that the correct document has been previously provided to the Examiner by the International Bureau as it was cited in the International Search Report. Copies of cited Search Report references were acknowledged by the U.S. Patent and Trademark Office in a communication mailed on October 4, 2001. Accordingly, Applicants respectfully submit that the Examiner has already considered this document. Nevertheless, Applicants submit herewith an Information Disclosure Statement with an

accompanying PTO-1449 form with the correct document listed. As the Examiner has already considered this document, no additional IDS fee is believed to be due. The Examiner is respectfully requested to initial the PTO-1449 form as having considered the cited reference.

Related Application Data

As suggested on page 2 of the Official Action, the related application data has been added to the present specification.

Claim Objections

Claims 3, 5, 8, 9, and 13 have been objected to for containing various informalities. Applicants have amended these claims as suggested on page 2 of the Official Action. Withdrawal of these objections is respectfully requested.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Without conceding to the merits of this rejection, and solely in an effort to expedite prosecution, claim 1 has been amended to recite that the steps take place sequentially. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 102/103

Claims 1, 4, 10, 13, and 15 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by, or alternatively, obvious under 35 U.S.C. § 103(a) over Malson (U.S. Patent No. 4,963,666). The Examiner asserts that Malson disclose crosslinked carboxyl-containing polysaccharides with a pH of 3-5, including dried particles and dried films. The Examiner asserts that Applicants must show that the crosslinked carboxyl-containing polysaccharides of Malson differ from the presently claimed invention. The Examiner further notes that claim 1 does not require that the steps be sequential. The Examiner suggests that Malson et al. disclose steps c and d of claim 1 and that a, c, and d can be done simultaneously after step c. This rejection, to the extent that it may apply to the claims as amended, is respectfully traversed.

To anticipate a claim under 35 U.S.C. § 102, a cited publication must disclose or suggest each and every claim limitation. Applicants respectfully submit that the Malson publication does not disclose each and every limitation of independent claim 1. Claim 1, as currently amended, requires that the steps of the method be performed sequentially.

Malson discloses a process that differs from the currently claimed process, at least, in that no separate comminuting step is described other than spray-drying, which does not involve separate comminuting and drying steps. None of the Examples show a comminuting step or a spray-drying step. Thus, Malson does not disclose the sequential steps required by independent claim 1.

Moreover, Applicants respectfully submit that the pH range of 3-5 disclosed by Malson is not the pH established after the crosslinking, but rather is the pH that can be chosen as the pH suitable for a variant of the crosslinking process. Other types of crosslinking require other pH values. *See* col. 2, ll. 58-65. Therefore, there is no disclosure in Malson of a crosslinked polysaccharide having a pH between 3.5 and 5.5, much less such an acidified polysaccharide in comminuted form. Applicants direct the Examiner's attention to all of the Examples of Malson, in which the crosslinking is performed at a high pH (*e.g.*, the presence of 0.5% NaOH). Therefore, Malson does not disclose crosslinking at a pH between 3.5 and 5.5.

Applicants further note that the uptake of liquid in the products of the Examples of Malson is typically in the order of 2-3 ml/g with one high exception of 12.7 ml/g in Example 16. This should be compared with the high liquid uptake (free swelling capacity, FCS) of the products obtained in the present examples, which ranges from 19.5 (Example 3) to 52 (Example 5a) to 132 g/g (Example 5). Applicants respectfully submit that such differences further highlight the fact that the process of Malson et al. differs from the presently claimed invention.

Applicants respectfully submit that Malson does not anticipate nor render obvious the presently claimed invention. Withdrawal of this rejection is respectfully requested.

Claims 13-15 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by, or alternatively, obvious under 35 U.S.C. § 103(a) over Berg et al. (EP 0 202 127). The

Examiner asserts that Berg et al. disclose disposable diapers with superabsorbent hydrogels and a pH control agent. Berg et al. allegedly disclose a composition that maintains skin pH within the range of from 3.0 to 5.5. The Examiner argues that Berg et al. disclose various hydrogels such as carboxymethylcellulose and acrylic acid grafted starch, which are purportedly inherently crosslinked. This rejection, to the extent that it may apply to the claims as amended, is respectfully traversed.

Claim 13 specifies that the product is obtained by the process of claim 1, *i.e.*, that it should have been subjected to separate comminuting and drying steps. The steps of claim 1 are not disclosed or suggested by Berg et al. Accordingly, Applicants respectfully submit that Berg et al. does not anticipate or render obvious the presently claimed invention. Withdrawal of this rejection is respectfully requested.

Claims 13-15 stand rejected under 35 U.S.C. § 103(a) as purportedly obvious over Berg et al. and Assarson et al. (U.S. Patent No. 3,901,236). The Examiner asserts that Berg et al. refers to the Assarson et al. publication, which allegedly discloses chemically crosslinked hydrogels. Thus, the Examiner argues, it would have been obvious to use chemically crosslinked hydrogels in conjunction with the disclosure of Berg et al. This rejection, to the extent that it may apply to the claims as amended, is respectfully traversed.

Applicants have noted above the deficiencies of the Berg et al. publication above. The deficiencies of Berg et al. are not remedied by the Assarson et al. publication.

Assarson et al. do not disclose or suggest the sequential steps of ensuring a particular acidic pH, comminuting the acidified gel and drying the comminuted gel. Thus, Assarson et al., either alone or in combination with Berg et al. does not disclose or suggest a product obtained by following the process of claim 1. Withdrawal of this rejection is respectfully requested.

Claims 1-7 and 10 stand rejected under 35 U.S.C. § 102(e) as anticipated by, or alternatively, obvious under 35 U.S.C. § 103(a) over Besemer et al. (U.S. Patent No. 6,331,619 or WO 98/27117). The Examiner notes that step b could be the first step of the process, because the steps do not necessarily need to be performed in sequence. The asserts that Besemer et al. disclose the presently claimed process in Examples 1 and 3. Example 1 of Besemer et al. allegedly disclose step b and Example 3 purportedly discloses steps a, c, and d and acidification. This rejection, to the extent that it may apply to the claims as amended, is respectfully traversed.

Initially, Applicants note that independent claim 1, as currently amended, requires that the recited steps be performed sequentially. The Examiner points to various isolated steps described in the Besemer et al. publication without considering the relationship between these steps. Example 1 describes a pH of 5, but this pH merely serves the oxidation process. The oxidation occurs on non-crosslinked starch and no crosslinking is performed afterwards. Additionally, Example 1 of the Besemer et al. publication does not describe the presence of carboxymethylcellulose, thus, this Example is not relevant to

claims 2 and 3. Example 3 of the Besemer et al. publication shows crosslinking, but at a high pH and no pH control between 3.5 and 5.5 is disclosed or suggested. Moreover, neither Example 1 nor Example 3 show comminution. Accordingly, because the Besemer et al. publication does not disclose or suggest each and every element of the presently claimed invention, the Besemer et al. publication cannot anticipate or render obvious the presently claimed invention. Withdrawal of this rejection is respectfully requested.

Claims 1-8 and 10-12 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over Besemer et al. The Examiner argues that Besemer et al. disclose crosslinking and the use of any drying technique. The Examiner asserts that one skilled in the art would have utilized a temperature such as 100°C for drying in Besemer et al. because a higher temperature would yield a faster drying. This rejection, to the extent that it applies to the claims as amended, is respectfully traversed.

Applicants have already noted above the deficiencies of Besemer et al. in failing to disclose or suggest the presently claimed invention. The Examiner has not presently any arguments in the current rejection that remedy those deficiencies. In particular, Besemer et al. fail to disclose the sequential process described in independent claim 1, including appropriate pH control during crosslinking and comminution. Accordingly, the Besemer et al. publication cannot render the presently claimed invention obvious. Withdrawal of this rejection is respectfully requested.

Rejections Under the Judicially-Created Doctrine of Obviousness Type Double Patenting

Claims 1-8 and 10-12 stand rejected under the judicially-created doctrine of obviousness type double patenting as allegedly unpatentable over claims 1-17 of U.S. Patent No. 6,331,619 to Besemer et al. in view of Berg et al. The Examiner asserts that it would have been obvious to one skilled in the art to utilize a superabsorbent polysaccharide derivative and an article having a pH below 5. This rejection, to the extent that it may apply to the claims as amended, is respectfully traversed.

Applicants have noted in detail above the respective deficiencies of both the Besemer et al. and the Berg et al. publications. Additionally, Applicants note that Berg et al. teaches the use of isolated zones of acid pH control in the article, while the present process and products are directed to products with pH control, homogeneously distributed over the polysaccharide superabsorbent. In light of the arguments above, Applicants respectfully submit that the presently claimed invention is patentably distinct from both the Besemer et al. and Berg et al. publications. Thus, a terminal disclaimer is deemed unnecessary. Withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's indication that claim 9 contains allowable subject matter. However, in light of the foregoing, Applicants respectfully submit that all other pending claims are allowable. Accordingly, rewriting claim 9 in independent form is deemed unnecessary.

Conclusions

From the foregoing, further and favorable consideration of the subject application in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

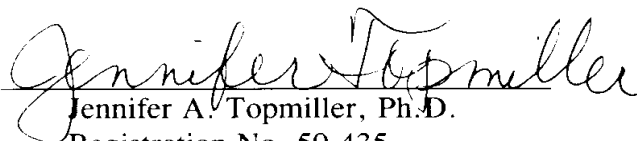
If there are any questions concerning this amendment, or the application in general, the Examiner is respectfully requested to telephone Applicants' undersigned representative so that prosecution may be expedited.

Respectfully submitted,

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